

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1298 of 1995

To

CIVIL REVISION APPLICATION No.1316/95

With

Civil Revision Application No.1318/95

With

Civil Revision Application No.1319/95

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

BHAVNAGAR MUNICIPAL CORPN

Versus

MANHARLAL CHAMPAKLAL

KHATSURIYA

Appearance:

MR JR NANAVATI for Petitioner in all matters.

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/12/1999

ORAL JUDGEMENT

1. Heard learned counsel for the petitioner.
2. In Municipal Tax Appeal filed by the respondent in the court of Civil Judge (Senior Division), Bhavnagar, by way of interim relief the court ordered:

"Referring to facts of the present Appeal and referring to documents attached to it the Appeal is ordered to be admitted on condition that Appellant shall have to pay 75% of the amount of bill with effect from the date of the notice of the Corporation on or before 9.1.95 in failure to do so Appeal will be treated as not maintainable one and dispose off. Appeal admitted, notice to issue otherside. Yadi be issued to appellant for depositing the amount."

The Corporation has challenged this interim order passed by the trial court by filing the appeal in the appellate court and the same was came to be rejected by the Extra Assistant Judge, Bhavnagar under the order dated 24.2.1995. Hence, this civil revision application before this court.

3. I fail to see any justification on the part of the Corporation to file the appeals and these revision applications in the matters where the learned Civil Judge (Senior Division), Bhavnagar has granted only interim relief, even if that order may not be legally correct. Instead of wasting public money in the litigation the Corporation should have made all endeavours to see and pursue the trial court to decide the appeals itself finally. It is a matter of the property tax and I also do not appreciate the approach of the learned Civil Judge (Senior Division), Bhavnagar to grant interim relief in favour of the tax payers. If, ultimately the tax payers succeed in the appeals, whatever tax recovered in excess than what it was required to be paid can be ordered to be refunded back to them.

4. Be that as it may, even where interim relief has been granted the trial court should have taken care that the appeals should have been disposed of finally. These appeals are of the year 1994. This court has not protected the petitioner in these civil revision applications and at this stage I do not consider it to be appropriate to decide these matters on the question,

whether interim relief should have been granted or not by the trial court. Interest of justice will meet in case where the trial court in which appeals are pending is directed to dispose of the same expeditiously. Order accordingly. The Civil Judge (Senior Division), Bhavnagar is directed to dispose of Municipal Tax Appeals of the petitioner out of which these civil revision applications have been arisen, within a period of three months from the date of the receipt of the writ of this order or certified copy thereof whichever is earlier. Civil Revision Applications and the rule stand disposed of accordingly with no order as to costs.

(pathan)